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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,367	08/01/2003	Benjamin S. Akkad	9874-24U1	3987

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AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7013

EXAMINER

SANTOS, ROBERT G

ART UNIT PAPER NUMBER

3673

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/632,367	AKKAD, BENJAMIN S.	
	Examiner	Art Unit	
	Robert G. Santos	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,10-13,16-18,28,30-34 and 38-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,10-13,16-18,28,30-34,38 and 39 is/are rejected.
- 7) ☒ Claim(s) 40-44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 16 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pope '783 (note especially Figures 1-3 & 5; column 2, lines 38-46 & 59-67; and column 3, lines 1-30).

3. Claims 1 and 10-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Pat. No. 5,618,110 to Sullivan (note especially Figures 1-7; column 4, lines 29-67; and column 5, lines 1-51).

4. Claims 28, 31, and 33 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pringle '942 (note especially Figures 1, 3, & 9; page 1, lines 54-75; and page 2, lines 25-40).

5. Claims 28, 31 and 33 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by MacColl '638 (note Figures 1 & 4-15; column 3, lines 21-30 & 62-67; column 4; column 5, lines 1-42).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan '110 in view of Pope '783. Sullivan '110 does not specifically disclose the use of a second pocket attached to the first piece (12) opposite an edge proximate the first pocket (14). Pope '783 provides the basic teaching of a combined fabric wrap and carry bag (10) including a second pocket (18 or 20) attached to the first piece opposite an edge proximate a first pocket (32). The skilled artisan would have found it obvious at the time the invention was made to provide the combined fabric wrap and carry bag of Sullivan '110 with a second pocket attached to the first piece opposite an edge proximate the first pocket in order to allow a pillow to be secured in place on the first piece of fabric (when the first piece of fabric is configured as a support device) as desired, thereby providing enhanced comfort for a user supported.

8. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan '110 in view of Pope '783 as applied to claim 16 above, and further in view of Storie '609. Sullivan '110, as modified by Pope '783, does not specifically disclose a condition wherein the second pocket extends away from the first piece of fabric and free edge. Storie '609 provides the basic teaching of a combined fabric wrap and carry bag having a plurality of pockets (11 & 12, 33), wherein each pocket may be used as a cover for an inflatable pillow,

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further wherein one of the pockets (11 & 12) may also be selectively pivoted relative to a first piece of fabric (16) such that it extends away from the first piece and a free edge proximate thereto. The skilled artisan would have found it obvious at the time the invention was made to provide the combined fabric wrap and carry bag of Sullivan '110, as modified by Pope '783, with a second pocket which extends away from the first piece of fabric and free edge in order to accommodate further a greater number of users of various heights as desired.

9. Claims 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacColl '638 in view of Sullivan '110. Although MacColl '638 provides the basic teaching of a plurality of storage pockets (22) each having a closure mechanism (36) (as described in column 5, lines 35-36 and in column 4, lines 41-44 & 58-64), MacColl '638 does not specifically disclose conditions wherein the second pocket is overlapped on the first piece and wherein the first pocket closure includes a drawstring. Sullivan '110 provides the basic teaching of a combined fabric wrap and carry bag (10) including a storage pocket (14) which is overlapped on a first piece of fabric (12) and which has a drawstring closure (22). The skilled artisan would have found it obvious at the time the invention was made to provide the combined fabric wrap and carry bag of MacColl '638 with a second pocket which is overlapped on the first piece and wherein the first pocket closure includes a drawstring in order to provide an additional alternative and equivalent means for storing the first piece of fabric as well as a simple alternative means for maintaining the first piece of fabric within the first pocket as desired.

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10. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over MacColl '638 in view of U.S. Pat. No. 5,729,846 to Sullivan. MacColl '638 does not specifically disclose a condition wherein the first pocket (22) has a mouth on a side of the pocket other than at the one end secured to the first piece (20). Sullivan '846 provides the basic teaching of a fabric wrap (10) including a first pocket (16) secured to a first piece of fabric (12), wherein the first pocket has a mouth on a side (32) of the pocket other than at the one end (18) secured to the first piece (as shown in Figure 2). The skilled artisan would have found it obvious at the time the invention was made to provide the combined fabric wrap and carry bag of MacColl '638 with a first pocket having a mouth on a side of the pocket other than at the one end secured to the first piece in order to provide an alternative pocket configuration for readily inserting or removing the first piece of fabric and inflatable pillow as desired.

11. Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacColl '638 in view of Sullivan '110 as applied to claim 30 above, and further in view of Pope '783. MacColl '638, as modified by Sullivan '110, does not specifically disclose a condition wherein the first and second pockets are located proximal opposite side edges of the first piece of fabric. Pope '783 provides the basic teaching of a combined fabric wrap and carry bag (10) including a plurality of pockets (18 or 20, and 32) secured to a first piece of fabric (12), wherein the pockets are located proximal opposite side edges of the first piece of fabric (as shown in Figures 1 & 2). The skilled artisan would have found it obvious at the time the invention was made to provide the combined fabric wrap and carry bag of MacColl '638, as modified by Sullivan '110, with first and second pockets located proximal opposite side edges of the first

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piece of fabric in order to provide an alternative support arrangement for a plurality of users (when the first piece of fabric is configured as a support device) as desired.

Response to Amendment

In response to Applicant's arguments on page 6 of his amendment concerning the Pope '783 reference, the examiner respectfully agrees. Consequently, the prior art rejection of claim 13 under Pope '783 has been respectfully withdrawn.

Furthermore, in response to Applicant's arguments on page 7 of his amendment regarding the Sullivan '110 patent, the examiner respectfully maintains that Sullivan '110 still discloses the use of first and second carrying straps having an end captured between the first and second piece of fabric as recited in claims 10-13 since loops (68) are captured between the first (12) and second (16) pieces of fabric and ends (60b) of the first and second carrying straps (60) are attached to the loops (as shown in Figure 7 and as described in column 5, lines 43-47). Claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).

Additionally, in response to Applicant's arguments on pages 7-9 of his amendment that there is no suggestion to combine the Sullivan '110, Pope '783 and Storie '609 references as well as to combine the MacColl '638, Sullivan '110, Sullivan '846 and Pope '783 patents, the examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test

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for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA 1969). In this case, although the motivations to make the modifications which were stated in the Office action were not expressly articulated within the references, one of ordinary skill in the art would have still found it obvious to combine the references simply due to the advantageous effects achieved by combining the structural elements inherent to the devices disclosed in the references. Thus it is believed that the examiner has provided a *prima facie* case of obviousness absent the use of impermissible hindsight.

Lastly, with further regards to Applicant's arguments on page 8 of his amendment concerning the MacColl '638 patent, the examiner respectfully maintains that MacColl '638 teaches the use of a plurality of storage *pockets* as clearly described in column 5, lines 35-36.

Allowable Subject Matter

12. Claims 40-44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pigg '500 and Cristiano '973.

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14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

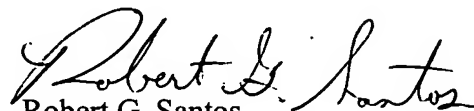
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
November 22, 2004